percentage finally increases after the ninth or tenth year, it only rises to as high as 36 percent based on skilled immigration, which is a little more than half of what the Canadian system now has.

I don't think that is a strong enough move, and it is a strong disappointment to me that this is the case.

Mr. President, I see my colleague from Wyoming, the ranking member of the HELP Committee, is here. I will not go on at greater length. I could do so because what I am pointing out to my colleagues today is fundamental flaws in this legislation. It is those fundamental flaws that one or two amendments are not going to fix.

The difficulty we have with amendments is the bill's sponsors, the group that was in the grand bargain coalition, have agreed that anyone who submits an amendment that changes any substantial part of the agreement they reached in secret somewhere without hearings, without input from the American people, will have their amendment voted down. They basically have said that publically and have told that to me personally. They say: JEFF, I like your amendment, I think it addresses a valid criticism. But, we met and we reached this compromise, and I am going to have to vote against it because we made a pact and we are going to stick together to make sure we move this bill through the Senate without any real changes.

That is what they have said on the floor of the Senate. They said: This violates our compromise. I am sorry, Senator, we can't vote for it. They ask their colleagues to vote the amendment down because it is a killer amendment, one that will harm their deal. They claim that if the amendment passes, the compromise will fail, and the whole bill will fall apart. JEFF, we have told you what we are going to do. Take it or leave it. Vote for it or vote against it.

That is fundamentally what has been said, and that is not right. That is not what this Senate is about. If they had a bill that would actually work, I may be irritable with the way it was produced and brought to the floor procedurally, but maybe I would be able to support it. Instead, I can only judge how valuable the bill is based on what it says and whether or not it will work. CBO says it will not work. I believe it will not work. I believe we are going to have another 1986 situation where we provide amnesty without enforcement. I believe we are again going to send a message around the world that all you have to do is get into our country illegally and one day you will be made a citizen.

There is another concern that I have not talked about much so far, but it is critical. I can show you why the Z visa and the legal status that is given to illegal alien applicants 24 hours after they file an application for amnesty will provide a safe haven and a secure identity for people in our country who are here unlawfully and who are actually members of terrorist groups. The bill provides them, without any serious background check, lawful identity documents that they can then utilize to get bank accounts, to travel, and do potentially fulfill their dastardly goals.

In fact, Michael Cutler, a former investigator with the immigration enforcement agency wrote an article in the Washington Times today titled ''Immigration bill a No Go'' discussing that very point. In careful detail, he explains the utter failure of this bill to protect us from terrorism.

In addition to stating that the bill would not reduce illegality, CBO also found out it is going to cost the taxpayers. You are used to hearing that the bill will make money for us, help us and make the Treasury do better, all claims that I have strongly disputed. But the way CBO scored the bill this year, it is going to be over $20 billion in costs in the next 10 years and may be closer to 30, and those costs to the Treasury will increase in the out years. That is because under this system, we are going to legalize millions of illegal immigrants who are uneducated, many illiterate even in their own countries, and statics tell us that they will draw more from the Treasury than they will ever pay in. I just tell you, that is what they say. And the numbers get worse in the outyears, dramatically worse. In fact, the Heritage Foundation has said, based on the amnesty alone—and I don't know if these numbers are correct but they were done by Robert Rector and he has been known to be very correct on many occasions—based on the amnesty alone, based on the educational levels and the income levels of the people who would be given amnesty, the cost to our country would amount to $2.6 trillion during the retirement periods of the people who came here illegally and would be given amnesty under the bill.

So that is a stunning number. I can't say with absolute certainty it is correct, but that is what we have been told, and we should be talking about it and studying it. We also know this: The net deficit caused by the bill according to the CBO score will grow each year after the first 10 years. They have said so themselves at last August's Budget Committee Hearing chaired by Senator ALLARD.

Mr. President, I thank the Chair. I hope my colleagues will study this bill carefully. I hope the Senate will reject it, not approve it. I hope we will do a better job in the future.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The senior Senator from Wyoming is recognized.

EMPLOYEE FREE CHOICE ACT

Mr. ENZI. Mr. President, I thank the Senator from Alabama for his steadfast effort to inform the Senate and other people about the flaws of the immigration bill. It is a bill that was put together by a coalition. It didn't go through committee. I have never seen a bill that passed this body that didn't go through a committee. That is because people put together the bill by bringing together their own pet projects and one saying to the other: I don't like your part, but if you will put my part in there, I will vote for your part and we will stick together to the bitter end. And that is usually what happens to a bill like that, it is a bitter end.

I don't think people are paying attention to their phone calls, their e-mails, and other things they are getting if they stick steadfast with that bill. But that is not what I am here to talk about today.

I am here to voice my strong opposition to the grossly misnamed Employee Free Choice Act. It should be called the Union Intimidation Act.

For generations, this body has faithfully protected and continually expanded the rights of working men and women. Today, however, the proponents of this legislation would do exactly the opposite and would strip away from working men and women their most fundamental democratic right—the right to a secret ballot. That is right. This bill would strip away the right to a secret ballot.

If the Democratic Party stands behind that principle, they should have to change their name. You can't strip away the right to a secret ballot from people of the United States or, hopefully, anywhere in the world. For generations now we have guaranteed to all workers in our country the right to choose whether they do or do not wish to be represented by a union. That is very often a critical decision for most employees, one that entails significant legal and practical consequence. It is a fundamental matter of individual choice and an essential right in the workplace.

Given its importance, we have secured that right through the use of the most basic and essential tool of the free and democratic people—the private ballot. The private ballot is the way those of us who live in a free society select all of those we would ask to represent us. Everyone in this Congress was selected by a private ballot, and American citizens wouldn't have it any other way. That is why it is so astonishing to me the majority is trying to take us to this bill, this Union Intimidation Act.

Under this bill, the rights and safeguards for a private ballot would no longer apply when employees decide whether they want the union to be their exclusive representative in the workplace. It is a very disturbing development when this body, which has no greater purpose than the preservation of our democratic rights, would choose to tell the working men and women of this country that democracy will stop at the factory gate.

To make it even more astonishing, some of the very people now pushing

this antidemocratic agenda are on record previously recognizing both the importance of the private ballot and the fallibility of just signing cards with the intimidator over your shoulder. In 2001, the lead sponsor of this misguided legislation in the House, along with 15 of his then-colleagues, wrote a letter to the Mexican Government regarding its labor laws in which they noted:

> The secret ballot election is absolutely necessary in order to ensure that workers are not intimidated into voting for a union they might not otherwise choose.

Now, what would prompt legislators in both Houses of Congress to lecture foreign governments on the necessity of private ballot union elections in their respective countries while simultaneously voting to deprive workers in this country of the same right?

In 1998, two of the AFL–CIO's most prominent unions argued to the National Labor Relations Board that:

> The National Labor Relations Board supervised election process is a solemn occasion conducted under safeguards to voluntary choice. Other means of decision-making are not comparable to the privacy and independence of the voting booth. The secret ballot election system provides the surest means of avoiding decisions which are the result of group pressures and not individual decisions.

What could possibly convince us to become partners in hypocrisy by joining these same unions and their surrogates when they now claim that we would strip workers of the right to decide the question of unionization in their own workplace by private ballot?

The view that the private ballot is the best way to determine employee choice and that alternatives such as card check are fatally flawed is not only shared by our colleagues across the aisle and labor unions, it is consistent with the views of the Federal Judiciary. The U.S. Supreme Court, along with the Federal Circuit Court of Appeals has uniformly, and over the course of decades, held that the private ballot is the best, most reliable, most democratic means of determining employees' free choice in the matter of unionization, and that all other methods, most particularly—most particularly—card signing are inherently flawed and unreliable.

With regard to signed cards, the Supreme Court noted that:

> Cards are not only unreliable because of the possibility of threats surrounding their signing, but because they are inherently untrustworthy since they are signed in the absence of secrecy and the natural inclination of most people to avoid stands which appear to be nonconformist and antagonistic to friends and fellow employees.

I wonder how many people here and how many people who might be listening have had somebody, a friend or somebody they are a little afraid of, bring them a petition to sign. How many people turned down that opportunity to sign that petition? I will bet not many.

With respect to the importance of the private ballot, one Federal Court of Appeals put it best when it observed that its preservation mattered simply because ''the integrity and confidentiality of secret voting is at the heart of democratic society, and this includes industrial democracy as well.''

That is what the judges say. So then what would make us reject the consistent—consistent—reasoning of the Federal Judiciary compiled in a host of rulings authored by scores of judges and accumulated over decades of time?

Finally, we should remember the cynicism of those who seek this legislation when they imperiously claim, ''We don't do elections,'' as if the democratic process was somehow beneath them. The source on that is Michael Fishman, the president of the Service Employees International Union, the largest property services local. Or when they arbitrarily dismiss fundamental employee rights by claiming, ''There's no need to subject the workers to an election.'' The source on that is Bruce Raynor, the general president of UNITE HERE. When labor leaders act like despots and tyrants, why would we conceivably make common cause with them?

There is no end to the fundamentally disturbing questions this legislation raises. Since this legislation was introduced, a host of claims have been made in an ultimately futile attempt to answer these questions. We need to stop and ask ourselves: What could possibly be the justification for this radical departure from our democratic tradition?

First, we have been told the current law is broken and that the system of private ballot elections is somehow rigged against labor unions. As proof positive of this claim, we have cited the fact that labor unions currently represent only 7½ percent of the private sector workforce, where at one time they represented 30 percent of the workforce.

At least in this instance the proponents of this legislation have gotten their facts and their statistics right, a notable departure from the avalanche of misinformation and completely inaccurate data that has characterized their side of this debate. However, what they have gotten entirely wrong is the notion that the decline in union representation levels has anything whatsoever to do with some infirmity in the law. Those who make this claim conveniently forget to mention that the law which they complain about today is identical to the law in effect when unions enjoyed their greatest organizing success and their highest levels of private sector membership.

The National Labor Relations Act, the statute which governs private sector unionization and which this legislation would radically change, has been substantially amended only twice in over 70 years—in 1947 and in 1959. The process of deciding the question of unionization by the use of a government-supervised private ballot election among all eligible employees has been unchanged for over six decades. This was the law and this was the process when union membership levels were at 25 or even 35 percent of the workforce. No one complained then that the law or the private ballot process was broken. No one ever claimed that either was so unfair or one-sided that we should change them by stripping away the employees' democratic rights.

As this chart shows, over the course of the last six decades, private sector union membership has declined steadily, but the law has remained the same. There is no doubt that the decline has been real, but organized labor and the supporters of this legislation need to look elsewhere for the cause of that decline since there is no connection between the law that has remained the same for 60 years and the steady decrease in union membership levels that have happened over that same time.

Second, we are told even if there is no infirmity in the law, employers now violate it with impunity and, therefore, unions cannot possibly win elections supervised by the National Labor Relations Board like they used to.

That claim is entirely erroneous. The reality is, when unions choose to participate in a fair, private ballot process, they are more than able to secure the support of eligible employees.

In fact, the success rate for unions in secret ballot organizing elections is at historically high levels. The union win rate in initial organizing elections has been over 50 percent for 10 straight years. That is an unprecedented run. Even more unprecedented is the fact that the union win has increased each and every year for the past 10 years in a row. That is what this chart shows. Unions have never before enjoyed such a run of increasing electoral success as they have over the last 10 years. In the last 2 years unions have won a record of nearly 62 percent of initial organizing elections. This, too, is historically unprecedented.

Before anyone buys the phony claim about how the election process has suddenly become unfair, they need to not only realize that union electoral success is at record highs, they also need to compare the past. For example, the unions won organizing elections over 62 percent of the time in the last 2 years, and averaged winning nearly 56 percent of the time over the last ten years. During the decade of the 1980s, the average union win rate was less than 50 percent. So it is going up. For example, in 1982, unions won less than 45 percent of the time. The same is true for the decade of the 1970s, when unions again averaged losing more often than they won.

Yet, despite union election win rates that were dramatically lower than the record highs of the past 10 years, and despite the fact that for many of those years the Democratic Party held the majority vote in one or both Houses of Congress, no one had the audacity to even propose that we should strip away from American workers the most fundamental guarantee of a free society—the right to a secret ballot. When

Democrats were in charge before, they didn't even suggest that.

Now, the truth is, where unions choose to participate in a democratic process and make their case to the workers in an atmosphere of open debate, the system is fair and they are more than capable of success. Their unprecedented level of recent success plainly makes this point. Moreover, it does not remotely justify changing a process that has worked for more than 60 years. It certainly does not justify any change that strips workers of their democratic rights. In light of organized labor's unprecedented electoral success over the last 10 years, this bill is like a baseball hitter who is on a decade-long hot streak and batting .620, insisting that the game is unfair and that the pitcher's mound has to be moved back.

The claim that the employers are violating the law with increased frequency and making fair elections impossible is equally incorrect. In fact, the incidents of even alleged but unproven employer misconduct have actually dropped steadily and dramatically over the last 10 years.

That is what this chart shows. The current rate of alleged employer unfair labor practices represents a drop of nearly 24 percent compared to 1990; a staggering 42 percent when compared to 1980.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ENZI. I see there is another Senator left to speak here. I have a lot left to say. This is a very important issue. A lot more needs to be said when we are faced with a proposal to take away away the right to a secret ballot in a bill deceptively called the Free Choice Act. It should correctly be called the Union Intimidation Act.

I will reserve the remainder of my remarks and speak again a little later. When I speak later, I will ask the RECORD not show an interruption.

The ACTING PRESIDENT pro tempore. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent to be permitted to speak as in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. That is the order. The Senator is recognized.

(The remarks of Mr. BOND pertaining to the submission of S. Res. 252 are located in today's RECORD under ''Submission of concurrent and Senate Resolutions.'')

The PRESIDING OFFICER (Ms. KLOBUCHAR). The Senator from Ohio is recognized.

EMPLOYEE FREE CHOICE ACT

Mr. BROWN. Madam President, as we debated energy and immigration issues in this body for the last 3 weeks, there has been palpable anxiety that we all see in our States, we all see in our homes, about our economy and about the future of the middle class—the squeeze on the middle class, the declining or stagnant wages of way too many middle-class households. In 2005 the real median household income in America actually went down 3 percent, from the year 2000. In Ohio it was down almost 10 percent. The average CEO makes 411 times the wage of the average worker; in 1990 the average CEO made 107 times as much. We know what has happened.

More important, we need to look at what has happened to wages in this country in a historical sense in the last 60 years. From 1947 to 1973, when our country, after World War II, was growing, you can see how wages grew among different people in our economy. The bar on the left is the lowest 20-percent wage earners, up to the highest 20-percent wage earners.

So those are the lowest wages. The lowest incomes in our country saw their wages grow the fastest of any one of those groups.

From 1973 until 2000, you can see the increase. Every group still increased, but growth changed sharply. The lowest 20 had the lowest economic growth; the highest 20 percent had the highest. I would add, 1973 was the year we went from a trade surplus in our country to a trade deficit. In other words, before 1973, we exported more goods in terms of dollars, in terms of value, than we imported.

Since 1973, that number has gone the other way. It has gone dramatically the other way in the last 10 or 15 years. Now, since President Bush took office in 2000, we have seen an even greater change in income for all Americans. The lowest 20 percent had an annual decrease, as I mentioned earlier, but so did the second quintile, the middle, the slightly upper middle, and the top 20 percent all had income decline. The only group that had an income increase in this 5-year period or so was the top 1 percent.

We have seen clearly that our economy is not working the way it should for middle-class Americans. That is why there is such anxiety among middle-class Americans. That is why so many of us who were elected for the first time, including the Presiding Officer, to the Senate in the year 2006, we knew of that anxiety and talked about middle-class issues: about health care, education, about jobs, about trade, about income.

Here is the real story. Since around the time of the trade deficit, the trade surplus prior to 1973 turning into the trade deficit, we have seen wages and productivity go like this. For many years, from World War II, for about 25 years, if you were a productive worker, your wages reflected your productivity. In other words, the more money you created for your employer, the more you shared in the wealth you created.

That was the American way. That is how you build a middle class. You are more productive and you share in the wealth you create. But something happened in the early 1970s. Again, in 1973 we went from a trade deficit to a trade surplus. We can see from about that time on, that productivity in this country kept rising, but wages in our country have been relatively flat.

One other thing happened, in addition to in 1973 going from a trade surplus to trade deficit, that was the time with the most pronounced decline in unionization. As Senator KENNEDY pointed out earlier today, as we have seen fewer people who are organized into unions, we have seen more stagnation of wages, even with productive workers

With the decline in unionization and with the trade deficit, wages have stayed relatively flat. That is why we need a very different trade policy. That is why we need the Employee Free Choice Act.

I might point out the Employee Free Choice Act does not abolish the secret election process. That would still be available. The bill simply enables workers to form a union through majority signup, if they prefer that method. So workers under current law may use the majority signup process only if their employers say yes. We think workers should make that determination, that we either want an election or we would like to do the simple card check. That will, in fact, increase unionization. We will also see that it will mean more mirroring of productivity in wages.

I would like to shift for a moment to some of my earlier comments about how in 1973, as we went from trade surplus to trade deficit, some of the things that happened in our economy. We know, going back not quite as far as 1973, only 15 years ago, the trade deficit in this country was $38 billion the year I first ran for the House of Representatives down the hall.

Today, the trade deficit in our country exceeds $700 billion. It has gone from $38 billion to $700-plus billion. President Bush, the first, said $1 billion in trade deficit translates into 13,000 jobs—$1 billion in trade deficit translates into 13,000 jobs. So do the math. We now have a $700 billion-plus trade deficit. We know what kind of havoc that wreaks on Steubenville, Toledo, and Portsmouth, Marion and Mansfield and Springfield and Xenia and Zanesville and all of these communities that were industrial towns that have had such damage done to their communities. They have had plant closings, they have had layoffs. Every time a plant closes, it means fewer firefighters, fewer police officers, fewer teachers in the public schools. We know what that does to our quality of life.

So the answer from the Bush administration, as we passed NAFTA and PNTR with China and CAFTA and every other trade agreement, as this trade policy has clearly failed, is: Let's do more of it. Let's do more trade agreements.